

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1343 Session of
2007

INTRODUCED BY REICHLEY, BOYD, CAPPELLI, CLYMER, DENLINGER,
EVERETT, GEIST, HARHART, KENNEY, KILLION, MAHONEY,
McILHATTAN, MOUL, MOYER, MURT, MUSTIO, NAILOR, NICKOL,
O'NEILL, PICKETT, PYLE, RAPP, ROSS, STERN AND THOMAS,
MAY 24, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 24, 2007

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," providing for mandatory arbitration.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. The act of March 20, 2002 (P.L.154, No.13), known
19 as the Medical Care Availability and Reduction of Error (Mcare)
20 Act, is amended by adding a section to read:

21 Section 513.1. Civil action.

22 (a) Arbitration.--If an action commenced against a health
23 care provider cannot be settled by the parties, then the parties

1 shall submit the case to mandatory arbitration under the
2 authority of the court of common pleas of the relevant
3 jurisdiction and venue. The arbitration panel shall consist of
4 three persons, selected randomly by the president judge. One of
5 the three shall be an attorney who practices law in the
6 jurisdiction of the court; one shall be a medical professional
7 who has a primary residence or practice of medicine in the
8 jurisdiction; and one shall be a senior judge from the
9 jurisdiction, or, if no such senior judge is available, shall be
10 a senior judge appointed by the Chief Justice of the Supreme
11 Court of Pennsylvania. Awards at arbitration shall be limited to
12 economic damages, reasonable attorney fees and not more than
13 \$250,000 for noneconomic damages per plaintiff.

14 (b) Appeals from arbitration.--Arbitration awards and
15 allocation of financial responsibility among multiple defendants
16 may be appealed. An appeal does not stay an arbitration award
17 although an appellate court may issue an order to stay to
18 prevent manifest injustice. Any party to an arbitration
19 proceeding may enforce an arbitration award or an allocation of
20 financial responsibility by filing a petition in the court of
21 common pleas in which the arbitration took place.

22 (c) Arbitration awards.--A defendant is required to pay an
23 arbitration award within 20 days after the award of damages by
24 the arbitration panel, to include interest at the legal rate or
25 to submit any dispute among multiple defendants to arbitration.
26 Interest at the rate of 18% per year begins to accrue 90 days
27 after the award.

28 (d) Jury trial.--Arbitration is an alternative to trial but
29 does not supersede or eliminate the right of a party to present
30 its case at trial. The decision of an arbitration panel, as well

1 as the inability of an arbitration panel to reach a decision,
2 shall be introduced at trial either by the testimony of one of
3 the arbitrators or by stipulation of the parties. Noneconomic
4 damages at trial shall not be limited. If the trial is held
5 before a jury, the court shall instruct the jury that
6 noneconomic damages are limited to \$250,000 before an
7 arbitration panel but are unlimited at trial.

8 Section 2. This act shall apply to actions instituted on or
9 after the effective date of this act.

10 Section 3. This act shall take effect immediately.